
UTAH LABOR COMMISSION

JONNEL JO STONE,

Petitioner,

vs.

**GEORGE T. WELDON and
WORKERS COMPENSATION FUND,**

Respondents.

**ORDER DISMISSING
MOTION FOR REVIEW**

Case No. 07-0327

George T. Weldon and its insurance carrier, Workers Compensation Fund (referred to jointly as “Weldon” hereafter), ask the Utah Labor Commission to review Administrative Law Judge Hann's award of benefits to Jonnel Jo Stone under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63-46b-12 and § 34A-2-801(3).

BACKGROUND AND ISSUES PRESENTED

In its motion for review, Weldon argues that Judge Hann erred in denying Weldon’s requests for continuance and also erred in concluding that Ms. Stone had suffered a compensable right-shoulder injury. However, before considering the foregoing issues, the Commission must first determine whether Weldon’s motion for review was filed within the 30 day time limit imposed by the Utah Administrative Procedures Act (“UAPA”; Title 63, Chapter 46b, Utah Code Ann.).

FINDINGS OF FACT

Judge Hann issued her decision in this matter on December 3, 2007. That same day, a copy of Judge Hann’s decision was mailed to Weldon at its correct mailing address. On January 3, 2008, the Labor Commission received Weldon’s motion for review.

DISCUSSION AND CONCLUSIONS OF LAW

Section 63-46b-12 of UAPA allows a party dissatisfied with an ALJ’s decision 30 days in which to file a motion for review with the Labor Commission. Timely filing is a prerequisite to the Commission obtaining jurisdiction to consider the substance of the motion for review, and a motion for review is not deemed “filed” until it is actually received by the Labor Commission. *Maverik v. Industrial Commission*, 860 P.2d 944 (Utah App. 1993).

ORDER DISMISSING MOTION FOR REVIEW
JONNEL JO STONE
PAGE 2 OF 3

In this case, Judge Hann's decision was issued on December 3, 2007, but Weldon did not file its motion for review until 31 days later, on January 3, 2008. Consequently, Weldon failed to file its motion for review within the 30-day period allowed by law, and the Commission has no jurisdiction to consider this matter further.

ORDER DISMISSING MOTION FOR REVIEW
JONNEL JO STONE
PAGE 3 OF 3

ORDER

The Labor Commission dismisses Weldon's motion for review as untimely. Judge Hann's decision remains in effect. It is so ordered.

Dated this 15th day of February, 2008.

Sherrie Hayashi
Utah Labor Commissioner

NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.